

DIVISION 18

PLAN AND LAND USE REGULATION
AMENDMENT REVIEW RULE

Purpose

660-18-005 This administrative rule is intended to implement provisions of ORS 197.610 through 197.625. The overall purpose is to carry out the state policy outlined in ORS 197.010.

Stat. Auth.: ORS Ch. 183 & 197

Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983,
f. & ef. 12-29-83

Definitions (*THE DEFINITIONS WILL BE ALPHABETIZED BEFORE FILING)

660-18-010 For the purpose of this rule, the definitions contained in ORS 197.015 shall apply. In addition, the following definitions apply:

(1) "Acknowledgment" means a Commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the [G]goals.

(2) "Filing" or "Submitted" shall mean that the required documents have been received by the Department of Land Conservation and Development at its Salem, Oregon office.

(3) "Final Decision" as described in OAR 660-18-040 and 660-18-050 shall be the approval or approval as modified, by the local government, of a proposed amendment to or adoption of a comprehensive plan or land use regulation. A denial of a proposed amendment by the local government shall not be

1 considered a "Final Decision" and therefore is not subject to
2 review under this administrative rule. The date of the "Final
3 Decision" as described in OAR 660-18-040 shall be the date on
4 which the local government takes final action on the amendment to
5 or adoption of a comprehensive plan or land use regulation. In
6 order to be deemed final, the local government action must
7 include the adoption of all supplementary findings and data. In
8 addition, the date of final action shall be the day following
9 exhaustion of all appeal rights before local government.

10 (4) "Final Hearing on Adoption" as described in
11 OAR 660-18-020 and 660-18-030 shall be the last hearing where all
12 interested persons are allowed to present evidence and rebut
13 testimony on the proposal to adopt or amend a comprehensive plan
14 or land use regulation. "Final Hearing on Adoption" shall not
15 include a hearing held solely on the record of a previous hearing
16 held by the governing body or its designated hearing body. If a
17 final hearing on adoption is continued or delayed, following
18 proper procedures, the local government is not required to submit
19 a new notice under OAR 660-18-020.

20 (5) "Comprehensive Plan" means a generalized, coordinated
21 land use map and policy statement of the governing body of a
22 local government that interrelates all functional and natural
23 systems and activities relating to the use of lands, including,
24 but not limited to, sewer and water systems, transportation
25 systems, educational facilities, recreational facilities, and
26 natural resources and air and water quality management programs.

1 "Comprehensive" means all inclusive, both in terms of the
2 geographic area covered and functional and natural activities and
3 systems occurring in the area covered by the plan. "General
4 [n]ature" means a summary of the policies and proposals in broad
5 categories and does not necessarily indicate specific locations
6 of any area, activity, or use. A plan is "coordinated" when the
7 needs of all levels of governments, semipublic and private
8 agencies, and the citizens of Oregon have been considered and
9 accommodated as much as possible. "Land" includes water, both
10 surface and subsurface, and the air.

11 (6) "Land use regulation" means any local government zoning
12 ordinance, land division ordinance adopted under ORS 92.044 or
13 92.046 or similar general ordinance establishing standards for
14 implementing a comprehensive plan. "Land use regulation" does
15 not include small tract zoning map amendments, conditional use
16 permits, individual subdivision, partitioning or planned unit
17 development approvals or denials, annexations, variances,
18 building permits and similar administrative-type decisions.

19 (7) "New land use regulation" means a land use regulation
20 other than an amendment to an acknowledged land use regulation
21 adopted by a local government that already has a comprehensive
22 plan and land use regulations acknowledged under ORS 197.251.

23 (8) "Substantially Amended" as used in OAR 660-18-045 shall
24 mean any change in text which differs from the proposal submitted
25 under OAR 660-18-020 to such a degree that the notice under
26 OAR 660-18-020 did not reasonably describe the nature of the

1 local government final action.

2 (9) "Commission" means the Land Conservation and Development
3 Commission.

4 (10) "Department" means the Department of Land Conservation
5 and Development.

6 (11) "Director" means the Director of the Department of Land
7 Conservation and Development or the designee thereof.

8 (12) "Goals" mean the mandatory state-wide planning standards
9 adopted by the Commission pursuant to ORS 197.005 to 197.430 and
10 197.610 to 197.650.

11 (13) "Local government" means any city, county or
12 metropolitan service district formed under ORS Chapter 268 or as
13 association of local governments performing land use planning
14 functions under ORS 197.190.

15 (14) "Computation of time"[7] means unless otherwise provided
16 in this rule, the time within which an act is to be done is
17 computed by excluding the first day and including the last unless
18 the last day falls upon any legal holiday or on Saturday, in
19 which case the last day is also excluded.

20 Stat. Auth.: ORS Ch. 183 & 197
21 Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. & ef
12-29-83

22

23 **Filing of a Proposed Amendment to or Adoption of a Comprehensive
Plan or Land Use Regulation with the Director**

24 **660-18-020 (1)** A proposal to amend a local government
25 acknowledged comprehensive plan or land use regulation or to
26

1 adopt a new land use regulation shall be submitted to the
2 Director at least 45 days before the final hearing on adoption.
3 The proposal submitted shall be accompanied by appropriate forms
4 provided by the Department and shall contain three copies of the
5 text and any supplemental information the local government
6 believes is necessary to inform the Director as to the effect of
7 the proposal. The submittal shall indicate the date of the final
8 hearing on adoption. In the case of a map change, the proposal
9 must include a map showing the area to be changed as well as the
10 existing and proposed designations. Wherever possible, this map
11 should be on 8-1/2 by 11-inch paper; where a goal exception is
12 being proposed, the submittal must include the proposed language
13 of the exception. The Commission urges the local government to
14 submit information that explains the relationship of the proposal
15 to the acknowledged plan and the [G]goals, where applicable.

16 (2) For purposes of this rule, "text" means the specific
17 language being proposed as an addition to or deletion from the
18 acknowledged plan or land use regulations. For purposes of this
19 rule, "text" does not mean a general description of the proposal
20 or its purpose. In the case of map changes "text" does not mean
21 a legal description, tax account number, address or other similar
22 general description.

23 Stat. Auth.: ORS Ch. 183 & 197
24 Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. & ef
12-29-83

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26

1 Submittal of Joint Amendments

2 660-18-021 Where two or more local governments are required
3 by plan provisions or statewide goals to jointly consider or
4 agree on a comprehensive plan or land use regulation amendment,
5 the local governments shall jointly submit the proposed amendment
6 and adopted action. The 45-day notice period required by OAR
7 660-18-020 shall be counted from the date of the first local
8 government's scheduled final hearing. For purposes of notice and
9 appeal, the date of the final decision shall be the date of the
10 last local government's adoption.

11 Stat. Auth.: ORS Ch.183 & 197, Statewide Planning Goals
12 Hist:

13 Exemptions to Filing Requirements Under OAR 660-18-020

14 660-18-022 (1) A local government is not required to submit
15 a proposed amendment to the Director under OAR 660-18-020 when
16 the local government determines that the [G]goals do not apply to
17 a particular proposed amendment or new regulation.

18 (2) A local government may provide less than 45 days notice
19 as required in OAR 660-18-020 when the local government
20 determines there are emergency circumstances requiring expedited
21 review.

22 Stat. Auth.: ORS Ch. 197
23 Hist: LCDC 12-1983, f. & ef. 12-29-83

1 Notice of Proposed Amendment to or Adoption of a Comprehensive
2 Plan or Land Use Regulation Sent to Those Requesting

3 660-18-025 Persons requesting notice of proposed amendments
4 to acknowledged comprehensive plans or land use regulations or
5 adoptions of new land use regulations who have paid the fee
6 established under the provisions of OAR 660-18-140 shall be
7 mailed a notice by the Department of the proposed action within
8 15 days of the receipt of notice from local government required
9 by OAR 660-18-020.

10 Stat. Auth.: ORS Ch. 183 & 197
11 Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. & ef
12 12-29-83

13 Report to Commission

14 660-18-030 The Director shall report the Department position
15 on proposed comprehensive plan or land use regulation adoption or
16 amendments to the Commission at least 20 days prior to the final
17 hearing on adoption. This report shall indicate whether the
18 Department will participate in local government proceedings and
19 whether the Director believes the proposal violates the [G]goals.

20 Stat. Auth.: ORS Ch. 183 & 197
21 Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. & ef
22 12-29-83

23

24 Department Participation

25 660-18-035 If the Department is participating in a local
26 government proceeding for which notice was received under
27 OAR 660-18-020, the Department shall notify the local government.
28 The Department notification shall occur at least 15 days prior to

1 the final hearing on adoption as specified in notice received
2 under OAR 660-18-020 and shall indicate any concerns with the
3 proposal and recommendations considered necessary to address the
4 concerns including, but not limited to, suggested corrections to
5 achieve compliance with the [G]goals.

6 Stat. Auth.: ORS Ch. 183 & 197
7 Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. & ef
8 12-29-83

9 Submittal of Adopted Material

10 660-18-040 (1) Amendments to acknowledged comprehensive
11 plans or land use regulations, new land use regulations adopted
12 by local government and findings to support the adoption shall be
13 mailed or otherwise submitted to the Director within five working
14 days after the final decision by the governing body and shall be
15 accompanied by appropriate forms provided by the Department.
16 Local government must notify the Department of withdrawals or
17 denials of proposals previously sent to the Department under
18 requirements of OAR 660-18-020. Notwithstanding the above
19 requirements, adopted amendments which are part of periodic
20 review shall be submitted within twenty (20) days after the final
21 decision as provided in ORS 197.641 and OAR 660-19-070. The date
22 of the "Final Decision" as described in this rule shall be the
23 date on which the local government takes final action on the
24 amendment to or adoption of a comprehensive plan or land use
25 regulation and must include the adoption of all supplementary
26 findings and data. In addition, the date of final action shall

1 be the day following exhaustion of all appeal rights before the
2 local government.

3 (2) The local government shall clearly indicate in its
4 transmittal which provisions of OAR 660-18-022 are applicable
5 where the adopted amendment was not submitted for review 45 days
6 prior to the final hearing on adoption.

7 (NOTE: ORS 197.610 clearly requires all adopted plan and
8 land use regulation amendments and new land use regulations to be
9 submitted to the Director even though they were not required to
10 be submitted for review prior to adoption.)

11 (3) Where amendments, including supplementary materials
12 exceed 100 pages, a summary of the amendment briefly describing
13 its purpose and requirements shall be submitted to the Director.

14 Stat. Auth.: ORS Ch. 183 & 197
15 Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. &
16 ef. 12-29-83

17 Changes in Proposals

18 660-18-045 If comprehensive plan or land use regulation
19 amendments or new land use regulations which are adopted by local
20 governments have been substantially amended the local government
21 shall specify the changes that have been made in the notice to
22 the Director provided in OAR 660-18-040.

23 Stat. Auth.: ORS Ch. 183 & 197
24 Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. &
25 ef. 12-29-83

1 **Notice to Other Parties**

2 **660-18-050** In addition to notice requirements in
3 OAR 660-18-040, within five working days of the final decision by
4 the governing body, local government shall send notice of the
5 action to persons who participated in the proceedings leading to
6 adoption and requested notice in writing. Notwithstanding the
7 above requirements, adopted amendments which are part of periodic
8 review shall be sent within 20 days after the final decision as
9 provided in ORS 197.641 and OAR 660-19-070. The notice required
10 by these rules shall describe the action, state the date of the
11 decision, indicate the time and place where the acknowledged
12 comprehensive plan or land use regulation amendment or new land
13 use regulation and findings can be reviewed. In addition, the
14 notice shall indicate the requirements for appealing the local
15 government action to the Land Use Board of Appeals.

16 Stat. Auth.: ORS Ch. 183 & 197
17 Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. &
18 ef. 12-29-83

19 **Notice of Local Government Action by the Director**

20 **660-18-055** [(1+)] Within five working days of the receipt of
21 notice under OAR 660-18-040, the Director shall provide notice by
22 mail or other submittal to those who have requested notice under
23 OAR 660-18-055 and have paid the fee established under the
24 provisions of OAR 660-18-140. This notice shall explain the
25 requirements for appealing the local government action to the
26 Land Use Board of Appeals and indicate the locations where the

1 adopted documents may be reviewed.

2 [~~(2) Notwithstanding section (1) of this rule, the Director~~
3 ~~shall provide notice by mail or other submittal to persons~~
4 ~~described in section (1) of this rule within five calendar days~~
5 ~~of the receipt of notice under OAR 660-18-040 of amendments made~~
6 ~~puruant to OAR 660-18-022.~~]

7 Stat. Auth.: ORS Ch. 183 & 197
8 Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. &
9 ef. 12-29-83

10 Who May Appeal

11 660-18-060 (1) Persons who participated either orally or in
12 writing in the local government proceedings leading to adoption
13 of an amendment to an acknowledged comprehensive plan or land use
14 regulation or a new land use regulation may appeal the decision
15 to the Land Use Board of Appeals under ORS 197.830 to 197.845.

16 (2) The Director or any other person may file an appeal of
17 the local government's decision to the Land Use Board of Appeals
18 under ORS 197.830 to 197.845 if an amendment to a comprehensive
19 plan or land use regulation or a new land use regulation differs
20 from the proposal and notice submitted under OAR 660-18-020 to
21 such a degree that the notice did not reasonably describe the
22 nature of the local government final action.

23 (3) The [d]Director or any person may appeal a local
24 government decision to adopt an amendment to an acknowledged
25 comprehensive plan or land use regulation or a new land use
26 regulation to the Land Use Board of Appeals under ORS 197.830 to

1 197.845 when the local government does not provide the notice
2 required by OAR 660-18-020 under exemptions contained in
3 OAR 660-18-022.

4 (4) A notice of intent to appeal plan and land use
5 regulation amendments processed pursuant to ORS 197.610 to
6 197.625 shall be filed with the Land Use Board of Appeals not
7 later than 21 days after the decision sought to be reviewed is
8 mailed to parties entitled to notice under OAR 660-18-040 and
9 660-18-050.

10 (NOTE: A decision not to adopt a legislative amendment or
11 new land use regulation is not appealable.)

12 Stat. Auth.: ORS Ch. 183 & 197
13 Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. &
14 ef. 12-29-83

15 **Objections by Non-Participating Parties**

16 660-18-065 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by
17 LCDC 12-1983, f. & ef. 12-29-83]

18 **Appeal by Director**

19 660-18-070 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by
20 LCDC 12-1983, f. & ef. 12-29-83]

21 **Appeal of Local Government Action Where Adopted Provision Differs from a Proposed Provision**

22 660-18-075 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by
23 LCDC 12-1983, f. & ef. 12-29-83]

1 Dismissal of Appeal or Objection Where the Action is Consistent
with the Acknowledged Plan

2 660-18-080 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by
3 LCDC 12-1983, f. & ef. 12-29-83]

4
5 Action Where No Appeal or Objection is Timely Filed

6 660-18-085 Upon receipt of an affidavit from the Land Use
7 Board of Appeals (LUBA) certifying that no timely appeal has been
8 filed or that a local decision has been affirmed, the Director
9 shall certify that an action taken subject to this rule is
10 acknowledged. If LUBA sustains a local government action, or no
11 appeal is timely filed, a local action under this Division is
12 considered acknowledged. After issuance of the periodic review
13 notice outlined in ORS 197.640(4) nothing in this rule shall
14 prevent the Commission from entering an order pursuant to ORS
15 197.647(4)(b) to require a local government to respond to the
16 standards of ORS 197.640(3).

17 Stat. Auth.: ORS Ch. 183 & 197
18 Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. &
ef. 12-29-83

19 Notice Where an Appeal or Objection is Timely Filed

20 660-18-090 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by
LCDC 12-1983, f. & ef. 12-29-83]

21
22 Submittal of the Record

23 660-18-095 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by
24 LCDC 12-1983, f. & ef. 12-29-83]

1 Form and Content of the Record

2 660-18-100 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by
3 LCDC 12-1983, f. & ef. 12-29-83]

4 Notice to Objectors

5 660-18-105 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by
6 LCDC 12-1983, f. & ef. 12-29-83]

7
8 Referral to the Commission

9 660-18-110 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by
10 LCDC 12-1983, f. & ef. 12-29-83]

11 Director's Report

12 660-18-115 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by
13 LCDC 12-1983, f. & ef. 12-29-83]

14
15 Exceptions

16 660-18-120 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by
17 LCDC 12-1983, f. & ef. 12-29-83]

18 Commission Hearing

19 660-18-125 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by
20 LCDC 12-1983, f. & ef. 12-29-83]

21 Commission Review and Final Order

22 660-18-[0]130 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by
LCDC 12-1983, f. & ef. 12-29-83]

23 Director Communication with the Commission

24 660-18-132 [LCDC 4-1983 (Temp), f. & ef. 6-23-83; LCDC
25 7-1983, f. & ef. 7-20-83; Repealed by LCDC
26 12-1983, f. & ef. 12-29-83]

1 Disposition of Deposit

2 660-18-135 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by
3 LCDC 12-1983, f. & ef. 12-29-83]

4 Fee for Notice

5 660-18-140 (1) An annual fee of \$50 to defray the costs of
6 notice provided under OAR 660-18-025 is established. The fee
7 shall be assessed for each fiscal year, or fraction thereof,
8 commencing July 1, 1982. The fee is payable in advance of any
9 notice being provided under OAR 660-18-025. For each subsequent
10 fiscal year, the Department shall bill persons requesting such
11 notice the annual fee each July. Persons failing to remit the
12 fee within 30 days of the date of the invoice shall be deemed as
13 having terminated the request for notice provided under
14 OAR 660-18-025.

15 (2) An annual fee of \$150 to defray the costs of notice
16 provided under OAR 660-18-055 is established. The fee shall be
17 assessed for each fiscal year, or fraction thereof, commencing
18 July 1, 1982. The fee is payable in advance of any notice being
19 provided under OAR 660-18-055. For each subsequent fiscal year,
20 the Department shall bill persons requesting such notice the
21 annual fee each July. Persons failing to remit the fee within 30
22 days of the date of the invoice shall be deemed as having
23 terminated the request for notice provided under OAR 660-18-055.

24 Stat. Auth.: ORS Ch. 183 & 197
25 Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983,
26 f. & ef. 12-29-83

NOTICE OF PROPOSED RULEMAKING HEARING

AGENCY: Land Conservation and Development Commission

The above named agency gives notice of hearing.

HEARING(S) TO BE HELD:

Date: October 22, 1987 **Time:** 8:30 a.m. **Location:** Hearing Room E, State Capitol Bldg., Salem, Oregon 97310

*A copy of the proposed rule will be mailed to the agency's mailing list on or about September 25, 1987. Written comments received by Monday, October 12, 1987 will be provided to the Commission one week prior to its meeting.

Hearings Officer(s): Land Conservation and Development Commission

Pursuant to the statutory authority of ORS Chapters 197 and 183, particularly ORS 197.040(1)(b) and 197.610 to .625.
the following action is proposed:

ADOPT: _____

AMEND: OAR 660, Division 18

REPEAL: _____

SUMMARY: These amendments are intended to implement provisions of Section 6, Chapter 729, Oregon Laws 1987 (HB 2950) and clarify requirements for comprehensive plan and land use regulation amendments.

Interested persons may comment on the proposed rules orally or in writing at the hearing. Written comments received by October 22, 1987 will also be considered. Written comments should be sent to and copies of the proposed rulemaking may be obtained from:

AGENCY: Dept. of Land Conservation and Development

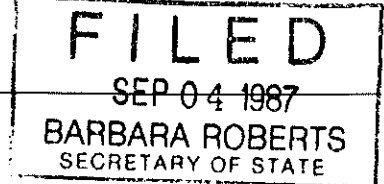
ADDRESS: 1175 Court Street NE
Salem, Oregon 97310

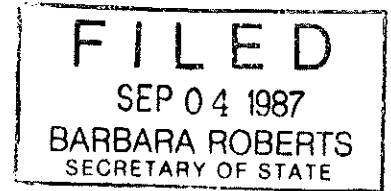
ATTN: Dale Blanton

PHONE: 373-0089

Signature

Date





ADOPTION OF AMENDED RULE

OAR 660, DIVISION 18
"PLAN AND LAND USE REGULATION AMENDMENT REVIEW RULE"

Statement of Need

The purpose of these rule amendments is to make the Commission's rule regarding its review of plan and land use regulation amendments consistent with the provisions of ORS 197.625 as amended by Section 6, Chapter 729, Oregon Laws 1987 (HB 2950).

Principal Documents Relied Upon

1. ORS Chapters 197 and 183
2. OAR 660, Division 1, Procedural Rules including Oregon's Model Rules of Procedures
3. OAR 660, Division 18 "Plan and Land Use Regulation Amendment Review Rule"
4. Chapter 729, Oregon Laws 1987 (HB 2950).

Fiscal Impact

These rule amendments are required by the changes made to ORS 197.625 by the 1987 Legislature. The amendments clarify some of the requirements regarding the Commission's review of amendments to plan and land use regulations. Such amendments will expedite the review process, avoid confusion, costly litigation and time delays. These rule amendments will have no negative fiscal impact on state agencies or local governments.

RE:sp
<oar>660.18.statement.need